



Public Notice

**US Army Corps
of Engineers**
Fort Worth District

Applicant: Realty Capital Golden Beach Limited

Permit Application No.: SWF-2004-00559

Date: October 2, 2008

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you would participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Mr. Standridge Walker

Phone Number: (817) 886-1740

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the construction of the North Beach Street extension and commercial residential properties adjacent to the proposed right-of-way (ROW) on the southeast side of the extension. North Beach Street currently ends at Golden Triangle Boulevard and is part of Fort Worth Master Thoroughfare Plan as a "major arterial" road. The project is on an undeveloped tract formerly used as pasture and cropland, located at the northeast corner of Golden Triangle Boulevard and the future North Beach Street, west of Alta Vista Road, in the City of Fort Worth, Tarrant County, Texas.

APPLICANT: Mr. Rian Maguire
Realty Capital Golden Beach Limited
99 Main Street, Suite 220
Colleyville, Texas 76034

APPLICATION NUMBER: SWF-2004-00559

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LOCATION: The proposed street extension and residential and commercial development would be located at the northeast corner of Golden Triangle Boulevard and the future North Beach Street, west of Alta Vista Road, in the City of Fort Worth, Tarrant County, Texas (Sheet 1 of 6). The proposed project would be located approximately at latitude 32.9304483 and longitude -97.281261. The site is located on the Keller 7.5-minute USGS quadrangle map.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposes to discharge dredged and fill material into approximately 0.97 acres (5,726 linear feet) of waters of the U.S. in conjunction with the extension of North Beach Street and adjacent residential and commercial development. Adverse impacts to waters of the U.S. would include approximately 2,087 linear feet of intermittent stream (0.40 acres) and approximately 3,639 lf (0.57 acres) of ephemeral stream for a total of 5,726 linear feet of stream.

The extension of North Beach Street would occur in a northerly direction beyond its present terminus at Golden Triangle Boulevard. The applicant also proposes to construct the commercial and residential development projects adjacent to the proposed right-of-way (ROW) along the southeast side of the extension. Although North Beach Street currently ends at Golden Triangle Boulevard, this street has been identified as a major arterial road as part of Fort Worth Master Thoroughfare Plan. The project site is an undeveloped tract of land formerly used as pasture and cropland, located at the northeast corner of Golden Triangle Boulevard and the future North Beach Street, west of Alta Vista Road, in the City of Fort Worth, Tarrant County, Texas (Sheet 1 of 6).

Big Bear Creek and four associated tributaries, all of which are located within the 100-year floodplain, transect the proposed North Beach Street Extension alignment. Based on a functional assessment performed by the applicant, these streams have been identified as "Risk Adverse," due to a lack of sufficient riparian buffer and anticipated hydrologic changes as a result of upstream development. The extension of North Beach Street and development of the adjacent properties would require the excavation and lowering of Big Bear Creek to reduce the lateral extent of the floodplain. The depth of excavation would decrease moving west to east across the project area, and grading contours would tie back into existing site contours along the eastern project boundary. The purpose of the proposed road extension project would be to relieve traffic congestion in the immediate area, Keller, and north Fort Worth region. The proposed residential and commercial development projects would satisfy residential and commercial development needs and provide economic benefit to the local area.

A Delineation of Waters of the U.S. report was prepared for the project. The delineation identified Big Bear Creek and four ephemeral tributaries with sub-tributaries within the project area. No wetland areas are present on the project site (Sheet 2 of 6).

The extension of North Beach Street would include a 130-foot right of way (ROW) extending north and then northeast through the project area, with an approximate 150-foot long crossing over Big Bear Creek (Sheets 3 and 4 of 6). This crossing would include approximately twelve (12) culverts that are 9-feet by 7-feet in size.

The floodplain currently extends 1,050 feet wide at the western project boundary and 825 feet wide at the eastern project boundary. The floodway is currently 350 feet wide at the western boundary and 450 feet wide at the eastern project boundary. As part of this project, the applicant proposes to excavate and lower Big Bear Creek within a reconstructed floodplain proposed to vary in width from 200 to 700 feet. In addition, the applicant would reconstruct a meandering pilot channel proposed to vary in width from 150 to 75-feet.

Big Bear Creek flows onto the project site at an elevation of approximately 738 msl. Upon completion of construction, the stream would be lowered by approximately 6 feet at the western project boundary and transitioned into an approximately 100-foot wide channel through either a rock gabion structure or rip-rap and flow to the northeast. A berm would be created outside of the channel to the south, within uplands, on the west side of North Beach Street. An existing tributary

on-site identified as TBBC2 would also flow into the reconstructed floodplain channel at the western project limits and would be re-graded to transition to the existing stream's contours. Flows associated with TBBC2 would enter Big Bear Creek immediately west of the proposed North Beach Street crossing, flowing over a rip-rap structure and beneath the road through 12 proposed 9-foot by 7-foot box culverts. Areas located to the east of the proposed Big Bear Creek crossing would flow over another rip-rap structure and into a proposed pilot channel within a proposed 150-foot wide low-flow stream course and proposed 200-foot wide floodplain. Flowing to the northeast then east the reconstructed floodplain would widen gradually to 700 feet. The low-flow channel would meander within the floodplain and would maintain a relatively consistent width of 75 feet. The proposed pilot channel would be established within the low flow stream course with a 5 foot channel base, 9-foot top of slope width, and 0.5-foot depth.

Big Bear Creek, its tributaries, and the current floodway and floodplain would be reconstructed within the proposed, lower, floodplain. The floodplain would be constructed with side slopes of 4:1 and a generally flat base (less than 1%). The floodplain base would also include grading work necessary to establish storm water treatment wetlands (Sheet 5 of 6). The side slopes for the wetlands would be constructed at 10:1, with higher slopes of 20:1 in minor areas. The low flow channel course and associated pilot channel would be reconstructed directly east of North Beach Street and gradually would tie back into existing contours of Big Bear Creek at the eastern project boundary. Minor stream reaches associated with TBBC2, TBBC3 and TBBC4 would remain unaffected by grading plans, as the base of the floodplain would tie into existing contours before the eastern project boundary. Stream reaches TBBC4 and TBBC2 would continue to flow into a reach of Big Bear Creek proposed to remain un-impacted. This reach would flow into the low-flow stream course. The reach of TBBC3 proposed to remain un-impacted would continue to flow into the drainage channel located along the eastern project boundary, in accordance with the current condition.

The commercial and residential properties would be located on the east and southeast side of the North Beach Street ROW, north and south of the floodplain. The upland areas would be graded to provide lots for both residential and commercial developments. A conceptual design for the commercial developments is provided as Sheet 6 of 6. Partial flows from this area would drain into the floodplain through outfalls proposed to outlet in various locations along the slopes of the floodplain and into storm water wetlands proposed to be constructed as part of this project (Sheet 5 of 6).

Construction would commence at the downstream end of the project area. Temporary rock check dams would be placed at the eastern project boundary and other locations, as appropriate. This work would be followed by excavation of the floodplain and low-flow channels, which would begin at the downstream portion of the site. Upon completion of channel excavation, the stream would be connected to the low-flow channel and the remnants of the original channels would be filled. Road construction would commence upon completion of channel work. Culverts would be placed within Big Bear Creek at a lower elevation than the stream bottom so that a natural stream bottom system

can be created through the culverts. Upland site grading would commence during and after the channel and road construction.

Adverse impacts associated with this project would include approximately 2,087 linear feet of intermittent stream (0.40 acres) and approximately 3,639 lf (0.57 acres) of ephemeral stream, with proposed impacts totaling approximately 5,726 linear feet (0.97 acres). As part of the evaluation of this project, the applicant identified several alternatives, which are discussed below.

Alternative 1 – Applicant's Preferred Alternative

Alternative 1 is the proposed alternative. A description of this alternative has been provided above in Project Description. This alternative would result in adverse impacts to waters of the U.S.; however through planning and several design considerations, impacts have been avoided and minimized to the extent practicable.

Alternative 2 – No Loss of Waters of the U.S. ("No Action")

This project could not be constructed and needs of this project could not be met without affecting waters of the U.S. North Beach Street is identified in the Forth Worth Master Thoroughfare Plan as a "major arterial" road. Any extension of North Beach Street would cross Big Bear Creek. Additionally, the reduction of the floodplain is necessary at the site for the road crossing as well as future proposed development. This alternative is considered to be the "No Action". The applicant eliminated this alternative from further consideration, as it would not meet the project purpose.

Alternative 3 – Redesign the Road Crossing

A bridge over Big Bear Creek and tributary TBBC2 would completely avoid impacts to waters of the U.S. However, such an alternative is not logistically feasible due to the existing locations of North Beach Street and Golden Triangle, in addition to the severely limited amount of space available to achieve the necessary grade for a bridge. This alternative was eliminated from further consideration as a result of these above referenced logistical constraints.

Alternative 4 – Decreasing the Size of the North Beach Street Crossing

Decreasing the width of the North Beach Street crossing would not affect the amount of impacts to waters of the U.S., as the floodplain construction would result in the greatest impacts to waters of the U.S. on-site. The applicant eliminated this alternative from further consideration, as it would not meet the project purpose relative to development and traffic congestion needs.

Alternative 5 – Change the Location of the Road Crossing

North Beach Street currently ends at Golden Triangle Boulevard, immediately south of the project area. The current ROW alignment has been mapped as one of the City of Fort Worth's "major arterial" thoroughfares within the project area and is owned by the City. Any extension of North Beach Street at adjacent sites would still require a crossing of Big Bear Creek. Further, these adjacent sites are all fully developed residential subdivisions. In all likelihood, the reduction of the floodplain would still be necessary to construct the Big Bear Creek crossing. This alternative was

eliminated this alternative from further consideration, as it would still result in adverse impacts to waters of the U.S., not alleviate current traffic congestion, and would likely require the displacement of adjacent homeowners.

To offset unavoidable adverse impacts to waters of the U.S. associated with this project, the applicant proposes to perform mitigation work within the base of the 100-year floodplain channel to the east of the North Beach Street crossing (Sheet 5 of 6). Approximately 1,680 linear feet (0.27 acres) of intermittent stream would be created within this area. An additional 3.07 acres of herbaceous wetlands and 1,968 linear feet (0.14 acres) of ephemeral streams would be created on-site and planted with native species in an effort to treat storm water and runoff. A total of 3.48 acres of waters of the U.S. would be created as part of this mitigation work. The streams proposed to be created and the approximately 1,874 linear feet (0.31 acre) of ephemeral stream proposed to remain un-impacted, would be enhanced through the establishment of approximately 11.51 acres of upland buffers. Collectively, these created waters of the U.S. and uplands would total approximately 15.30 acres.

Proposed mitigation work would incorporate use of vegetated buffers and wetland areas planted with native trees, shrubs, and herbaceous species to help improve water quality within the watershed and the project area. Establishment of these areas would also afford some level of protection to Big Bear Creek from increasing development pressures. The herbaceous vegetation to be established in the wetlands, floodplain and buffers would aid in filtering particulates, the degradation of organic contaminants, and sequestering metals. The planting of a diverse variety of native plant species would improve the riparian and aquatic habitat and replace what was impacted during construction activities. All vegetation selected to be planted within the mitigation areas would be native to the region and would be selected to achieve an ecological balance and high survivability rate within each planting area.

The 15.30 acres of proposed mitigation area located within the floodplain to the east of North Beach Street would be deed-restricted under the proposed mitigation plan. Although no mitigation was proposed for the west of North Beach Street (property of adjacent landowner) this area would be seeded with a mix of native herbaceous riparian species as well.

The mitigation plan for the North Beach Street Extension project has three main goals:

- To ensure that the development does not increase flooding or erosion downstream of the site.
- To ensure that the development improves, not degrades, the quality and quantity of aquatic habitat (including riparian habitat) within the project area; and
- To ensure that the project improves, not degrades, water quality within the project area.

In order to demonstrate whether the mitigation goals have or have not been met, the mitigation areas would be constructed and monitored and would be required to meet established performance standards. Planting success criteria and performance standards have been set for the mitigation plan

in order to monitor the success or failure of the mitigation areas. Additionally, a plan for long term monitoring and management, as well as a contingency plan, has been provided within the mitigation plan.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal would be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received would be considered by the USACE in determining whether to issue; issue with modifications or conditions; or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made

available for review in the TCEQ's Austin Office. The complete application may be reviewed in the USACE's office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, adversely affected such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in a county where the bald eagle (*Haliaeetus leucocephalus*), whooping crane (*Grus americana*), and least tern (*Sterna antillarum*) are known to occur or may occur as migrants. The whooping crane and least tern are endangered species. The bald eagle has been delisted and is within the first five years of monitoring. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The project site was surveyed for the presence of historic and prehistoric cultural resources. Shovel testing indicated no sites are along Parvin Branch. Buried sites without surface expression may yet be identified during construction. Concurrence from the Texas Historic Commission, which stated no additional consultation was required, was received in a letter dated December 18, 2007. If previously unidentified sites are encountered, they will be assessed for eligibility to the National Register of Historic Places and the need for additional treatment prior to impacts.

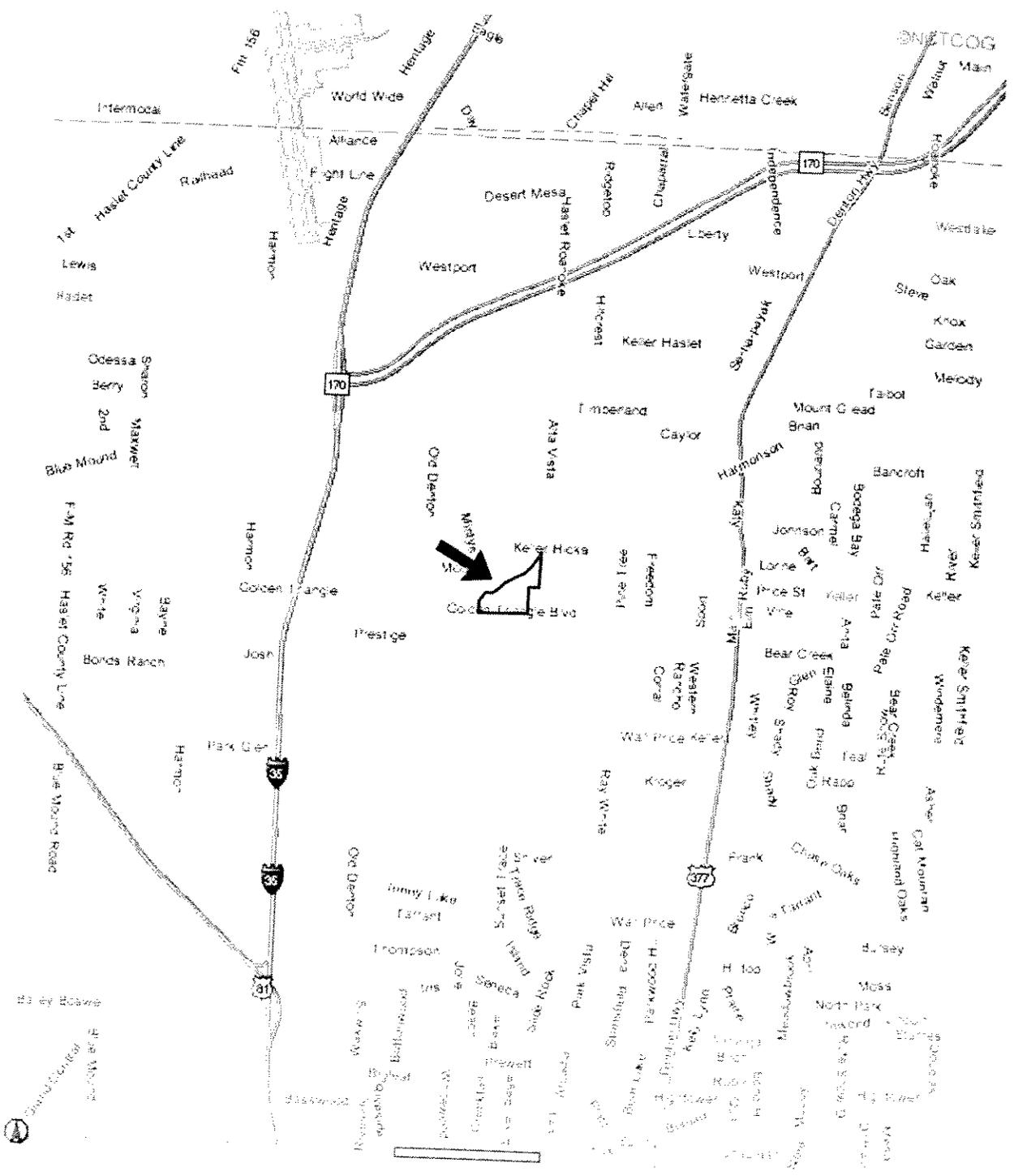
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

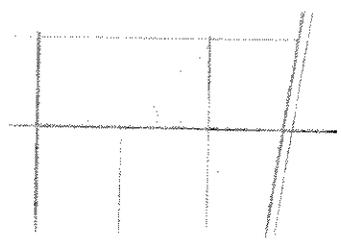
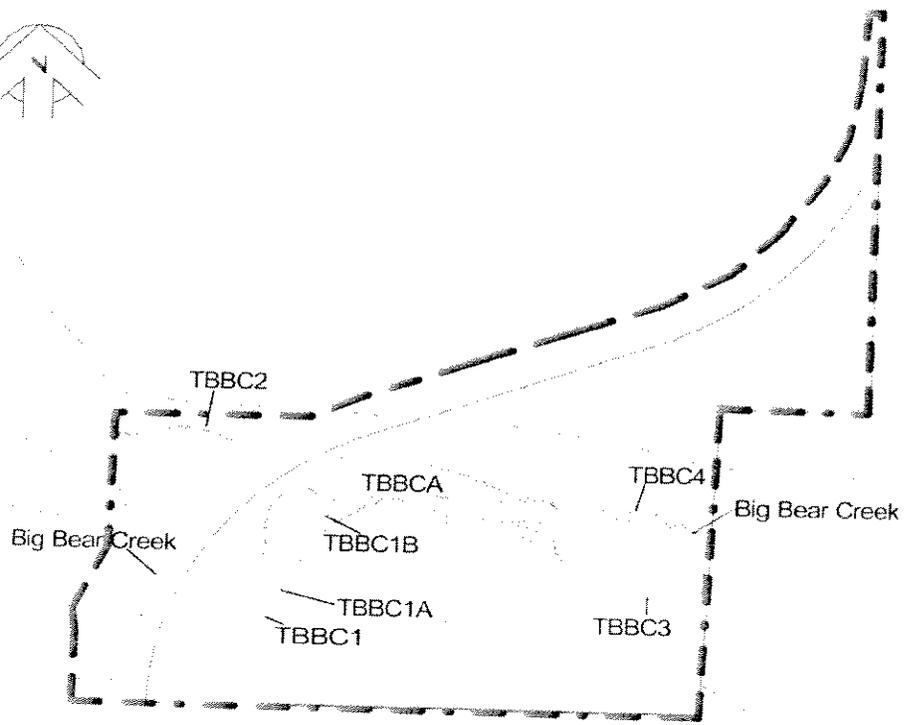
PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons would be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before November 3, 2008, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mr. Standridge Walker; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



Sheet 1 of 6. Site Location of the North Beach Street Addition, Fort Worth, Texas.
 USACE Project 200400559



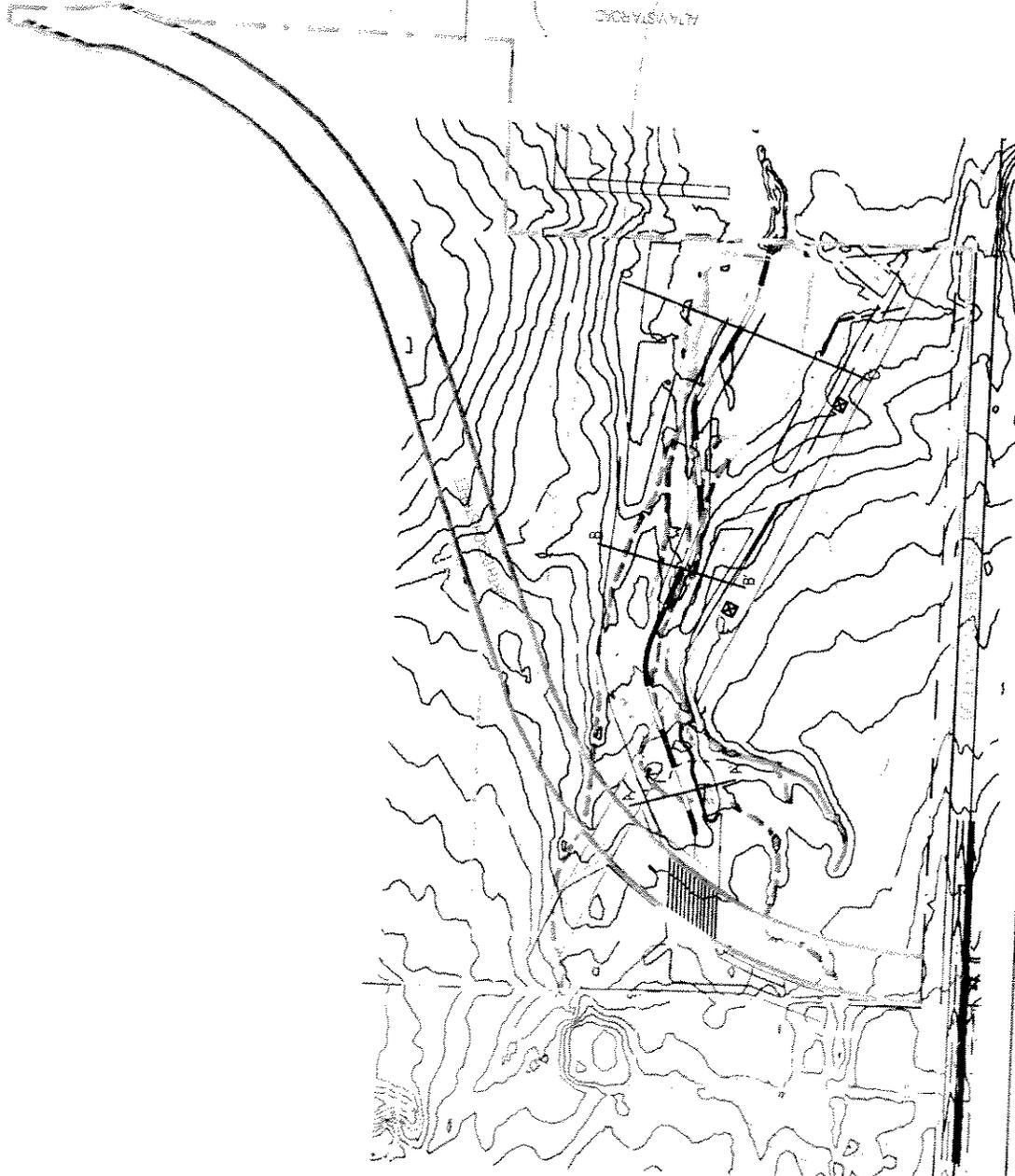
LEGEND

-  PROPERTY LINE
-  STREAM CHANNEL
-  TBBC
- TRIBUTARY TO BIG BEAR CREEK

Not to Scale

KBA *EnviroScience, Ltd.*
101 E. Southwest Pkwy, Suite 114
Lewisville, TX 75067
(972) 436-9669

Sheet 2 of 6. Waters of the
U.S., North Beach Street Addition,
Fort Worth, Texas.
USACE Project 200400559



KBA EnviroScience, Ltd.
 101 E. Southwest Pkwy, Suite 114
 Lewisville, TX 75067
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Impacted Waters of the U.S.
 Unimpacted Waters of the U.S.

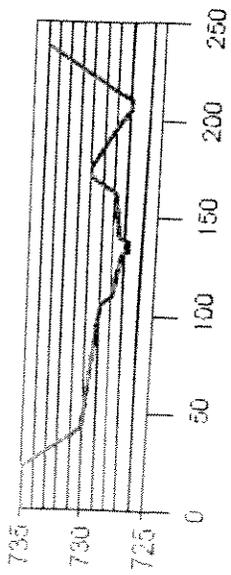


A-A'

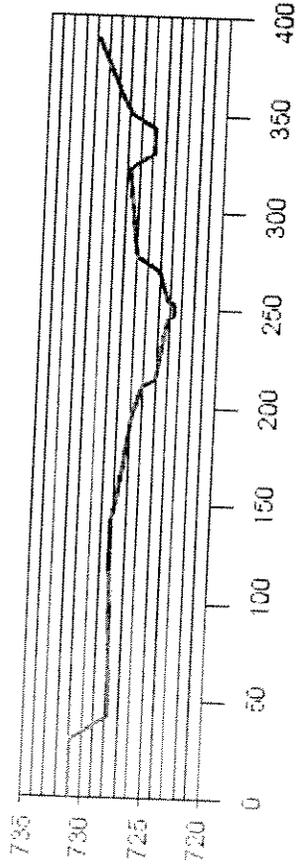
Cross-sections (Refer to Exhibit 4B)
 Project Boundary

Sheet 3 of 6. Site Plan with Impacts to Waters of the U.S.,
 North Beach Street Addition, Fort Worth, Texas. USACE Project 200400559

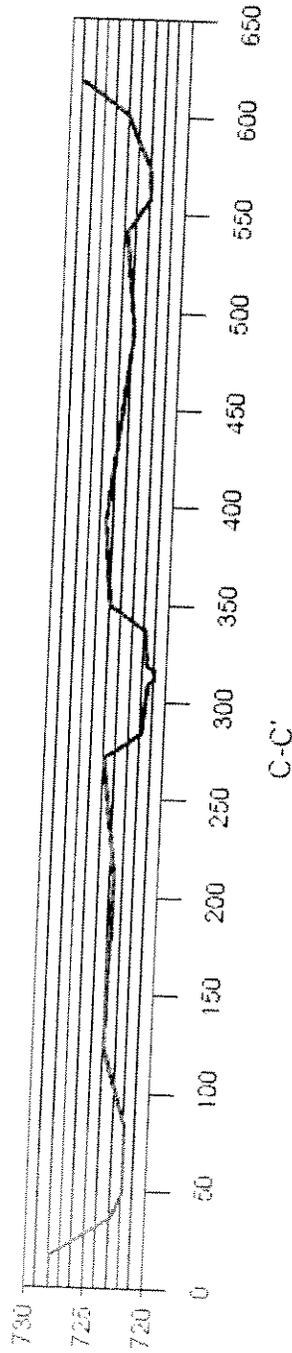




A-A'



B-B'

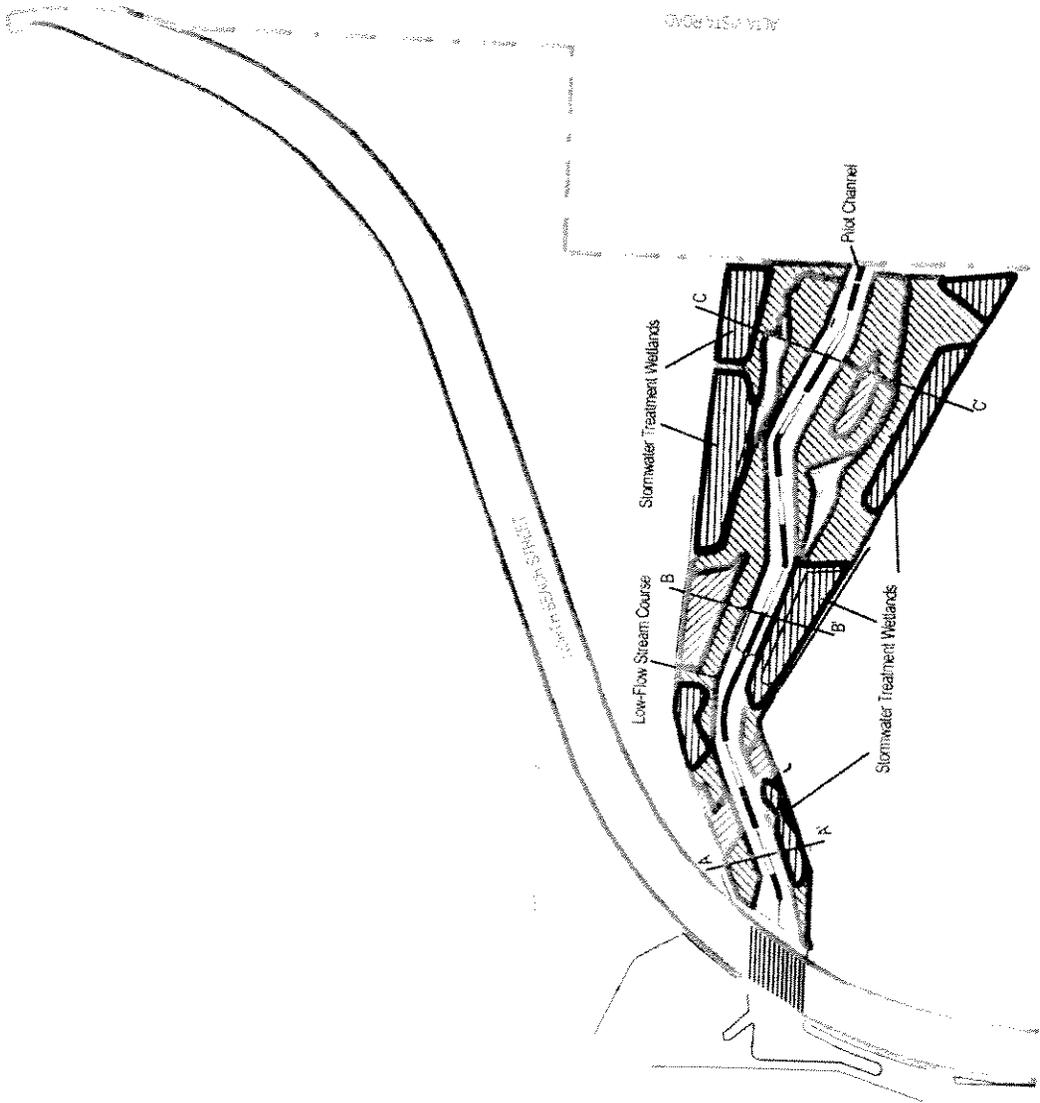


C-C'

KBA EnviroScience, Ltd.

101 E. Southwest Pkwy, Suite 114
 Lewisville, TX 75057
 (972) 436-9669

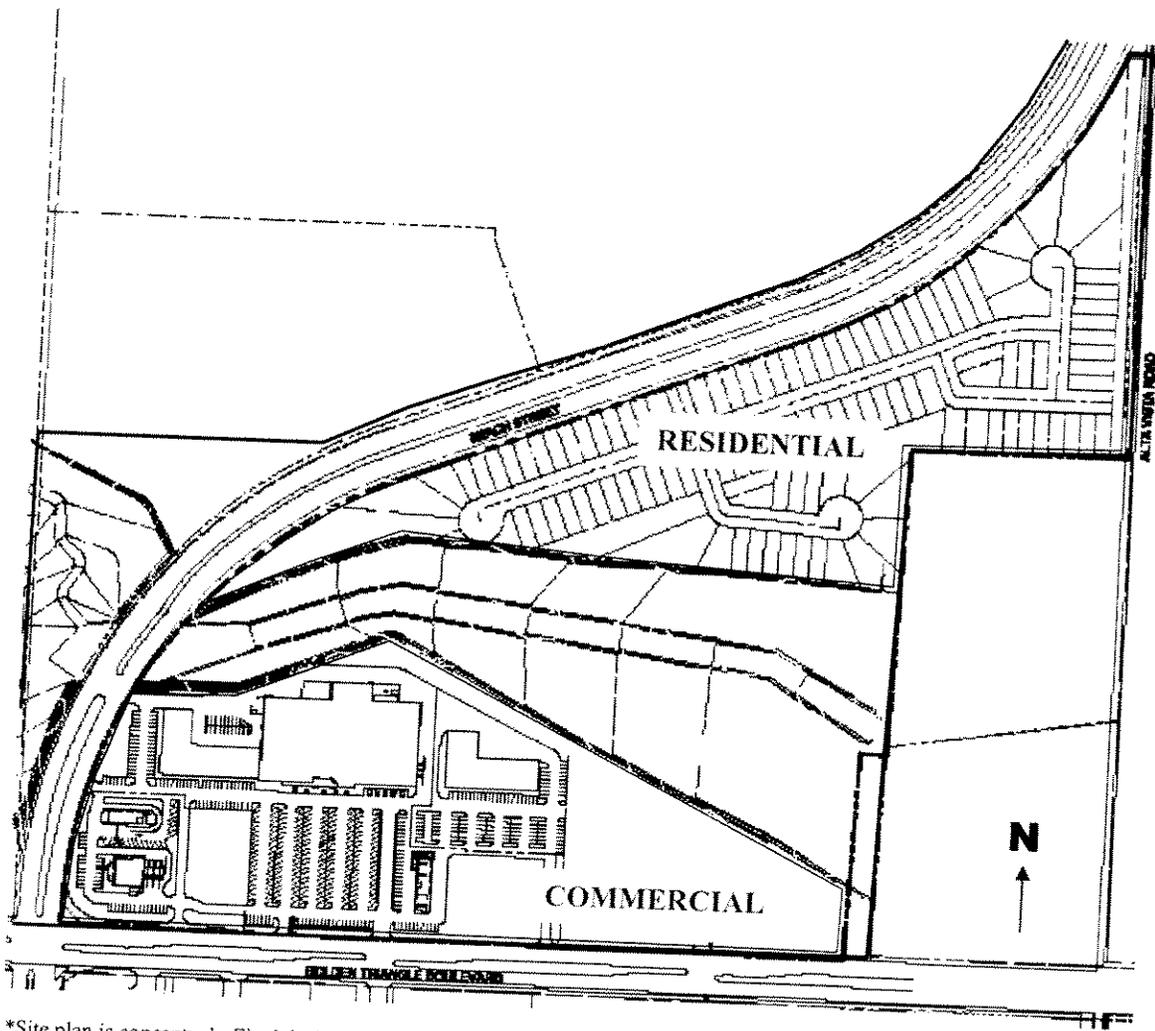
Sheet 4 of 6. Site Plan Cross-Sections, North Beach
 Street Addition, Fort Worth, Texas.
 USACE Project 200400559



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□ Mitigation Area A
 ▨ Mitigation Area B
 ▩ Mitigation Area C
 — Waters of the U.S.
 — Project Boundary

Sheet 5 of 6. Mitigation Planting Plan, North Beach Street Addition, Fort Worth, Texas.
 USACE Project 200400559



*Site plan is conceptual. Final design and layout of adjacent residential and commercial developments are subject to change.

Sheet 6 of 6. Conceptual Site Plan for the Adjacent Commercial and Residential Developments for the North Beach Street Addition, Fort Worth, Texas. USACE Project 200400559